

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

AMERICAN MODERN HOME
INSURANCE COMPANY, an Ohio
corporation,

Plaintiff,

vs.

DOLAN DUFFY, a citizen of
Montana,

Defendant.

CV 13-01-BU-DLC

ORDER

FILED

JAN 29 2014

Clerk, U.S. District Court
District Of Montana
Missoula

United States Magistrate Judge Carolyn S. Ostby entered her Findings and Recommendation on January 13, 2014, recommending that Plaintiff's motion for summary judgement be granted and that the Court enter judgment in Plaintiff's favor. Defendant did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1).

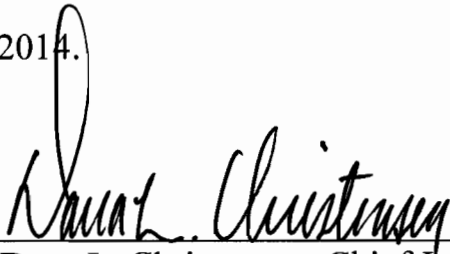
This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

There is no clear error in Judge Ostby's Findings and Recommendation. Plaintiff American Modern Home Insurance Company has paid to Duffy the limits of all applicable insurance available under Policy Number N077 032685 0045513017 25 T60 ("the Policy"). The Policy's Animal Liability endorsement clearly, conspicuously, and unambiguously limits coverage to \$10,000 for bodily injury caused by an insured's animal. The special limit for Animal Liability does not violate public policy and the limitation is not beyond an insured's reasonable expectations. Accordingly, the limit is enforceable and applicable to Duffy's claim. Duffy's contentions to the contrary are without merit. Plaintiff has paid all applicable insurance coverage limits to Duffy under the Policy and Duffy has no further right or interest under this Policy.

Accordingly, IT IS ORDERED that Judge Ostby's Findings and Recommendation (Doc. 26) are ADOPTED IN FULL. Plaintiff's motion (Doc. 17) is GRANTED. All pending motions are DENIED AS MOOT and this case is CLOSED.

Dated this 29th day of January 2014.


Dana L. Christensen, Chief Judge
United States District Court